



ILLINOIS COMMERCE COMMISSION

September 12, 1997

SEP 15 1997

FCC DOCKET

VIA FEDERAL EXPRESS

Mr. William F. Caton
Acting Secretary
Office of the Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

RE: Comments of the Illinois Commerce Commission for in CC Docket 94-129.

Dear Mr. Caton:

Enclosed please find the Comments of the Illinois Commerce Commission to the Federal Communications Commission filed pursuant to FCC Docket 97-248. I have included an original and eleven copies.

I would appreciate acknowledging receipt of the filing by returning a duplicate time stamped copy of this letter in the enclosed self addressed, stamped envelope.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "G. Darryl Reed".

G. Darryl Reed
Special Assistant Attorney General

Enclosures

cc: Cathy Seidel, Common Carrier Bureau, 2025 M Street, N.W.,
Washington, DC 20554
Formal Complaints Branch, Enforcement Division, Common Carrier
Bureau, Mail Stop 1600A1, Washington, DC 20554
International Transcription Service, Inc., 1231 20th Street, N.W.,
Washington, DC 20037

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Implementation of the Subscriber Carrier)
Selection Changes Provisions of the)
Telecommunications Act of 1996)
)
Policies and Rules Concerning)
Unauthorized Changes of Consumers')
Long Distance Carriers)

JUL 15 1997
FCC FILE FOR

CC Docket No. 94-129

COMMENTS OF
THE ILLINOIS COMMERCE COMMISSION

The Illinois Commerce Commission (ICC) hereby submits its comments pursuant to the Federal Communications Commission's (FCC's) Further Notice of Proposed Rulemaking (FNPRM) and Memorandum Opinion and Order on Reconsideration on the Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996 (the Act) and Policies and Rules Concerning Unauthorized Changes of Consumers' Long Distance Carriers, CC Docket No. 94-129, (F.C.C. July 15, 1997).

Section 258(a) – Prohibition

Application of Verification Rules

At paragraph 11 of the FNPRM, the FCC requests comment on the adequacy of current preferred carrier (PC) change procedures. The ICC supports the use of the same verification rules for all three forms of PC changes; local, Intra-LATA and Inter-LATA. Since many companies already offer all three types of service and regularly

market all three types of service to subscribers, the ICC believes that enforcing identical verification procedures for all three is the most practical alternative. Implementing identical verification procedures would allow marketers to solicit pre-subscription for any of the three types of service during a single contact, utilizing the same method of verification for each separate service.

In its FNPRM, the FCC seeks comment on the appropriate definitions of “submitting” and “executing” carriers, as those terms are used in Section 2568(a) of the Act. The ICC agrees with the FCC’s definition of “submitting” carriers as those companies which seek and secure a customer’s subscription. The ICC also agrees with the FCC’s definition of “executing” carriers as those which place such subscriptions into effect.

The FCC also seeks comment on the appropriate verification procedures executing carriers must undertake to ensure that submitting carriers are not changing a customer’s carrier without authorization. FNPRM at ¶¶ 13-14. With regard to verification procedures that executing carriers must undertake to ensure that submitting carriers are not changing a customer’s carrier without authorization, the ICC provides the following comments. First, instead of requiring the executing carrier to verify that the submitting carrier has not illegally switched a customer, the FCC should concentrate its efforts on making the unauthorized switching of a customer’s carrier an unattractive option for carriers. Examples of how the FCC may achieve this appear later in this document. Second, the ICC is also of the opinion that a verification process for executing carriers might erect barriers to the timely establishment of changes in local exchange carriers. This result may occur because the executing carrier will generally

be the incumbent LEC, which, by executing the change, will lose business. Third, the ICC notes that establishment of strong disincentives for carriers to change a customer's carrier without authorization will also eliminate the need for a third party to verify that the incumbent LEC's own marketing and PC practices are consistent with regulations. Finally, companies must be certain they have the express consent – either written or verbally recorded – before submitting changes in subscribed carriers. They must also be certain that the individual giving consent is a responsible party for the line in question. For example, ICC's Consumer Services Division (CSD) reports consumer contacts where companies have been switched by minor children at residences or by employees at businesses without the authorization to make such selections.

"Welcome Package"

At paragraphs 16-18 of its FNPRM, the FCC seeks comment on welcome package issues. The ICC supports mailings as a means to inform customers about their choices. However, the ICC does not advocate use of "welcome packages" as the means of PC verification. The ICC supports the position of the National Association of Attorneys General (NAAG) that welcome packages could easily be used as a means to secure an illegal change of service. The welcome package by itself assumes a positive response has already been received from a subscriber. However, there is no way to ensure a positive response was actually received given that a marketer sends the package without first verifying the switch by other means.

In-Bound Calls

At paragraphs 19-20 of its FNPRM, the FCC seeks comment on “in-bound” call issues. The ICC supports the FCC’s conclusion in its *1995 Report and Order* to extend verification procedures to consumer-initiated calls to the carrier. Consumers who merely seek information about a carrier’s services may become “fair game” for switching absent stringent verification requirements. The ICC also notes that consistency in the verification requirements for all situations eliminates potential abuses of “in-bound” calls and queries (for instance, a consumer who contacts a company Internet site for information on services).

PC-freeze Verification

The ICC supports standardization in both the processes for initiation and removal of PC-freezes, thereby placing the freeze process in the hands of the consumer. The ICC also recommends status notation on the consumer’s monthly bill to inform the consumer about the carrier which placed the freeze on his/her account as well as how to open it to choose another carrier. In addition, the customer’s PC choices for all three services could be listed on his/her bill. This would have the dual function of alerting consumers to any unauthorized changes; a problem which now may remain undetected by consumers in some instances for as long as 12 months. Finally, the ICC does not oppose voluntary use of third-party verification by companies which offer PC-freezes.

Carrier Identification Codes (CICs) and PC-freezes

The ICC recommends that all carriers be assigned an individual CIC. This is needed because PC-freezes can be defeated by resellers who use the same CIC as their underlying network provider to which the consumer was subscribed prior to the unauthorized switch. In this instance, an executing carrier has no idea that such a change has occurred because the real switch takes place in the underlying network provider's system. This, in turn, makes it difficult to identify the slamming carrier and rectify the problem in a timely manner.

Section 258(b) – Liability

The ICC recommends that end users not be required to compensate the slamming party for outstanding charges. The ICC finds that the current rules provide carriers with an incentive to change a consumer's carrier without authorization because such carriers are allowed to bill and collect from customers such charges under a re-rating scheme. The ICC also notes that feedback from consumers taken by the ICC's CSD indicates that many consumers are not opposed to paying their properly authorized carrier, but do object to compensating the slamming carrier .

Although the ICC supports the intent of Section 258 to provide a disincentive to slamming by forfeiture of collected charges to the preferred carrier, the ICC believes the amendment places a difficult burden on the preferred carrier to attempt to collect such moneys from the offender. If the harmed consumer is no longer required to compensate the slamming party for the cost of service, slamming will no longer be a

profitable and desirable activity. Arguments that this will allow consumers to claim slamming to avoid payment of legitimate bills fall short when carriers apply good recorded verification techniques to their marketing.

Finally, the ICC supports direct customer payment to their preferred carrier, rather than complete forfeiture of payment responsibilities by that customer. This further eliminates concerns that false “slamming” claims will allow consumers to avoid payment.

Making the Subscriber “Whole” after a Slam

With regard to the FCC’s proposal to require the preferred carrier to place a value on lost premiums (e.g. points for airfare) so that the slamming carrier can ultimately reimburse the customer for such lost premiums, the ICC considers this to be a burdensome and potentially contentious procedure. The ICC does not object to carriers attempting to offer such recompense on a voluntary basis as goodwill to customers. However, attempting to arbitrate the value of lost premiums and compensate customers for such premiums is better left to the judicial process. The ICC also notes that if the consumer pays the preferred carrier for the service and not the slamming carrier, the preferred carrier may be able to re-instate the premium products or services anyway.

Changes in Underlying Network Providers for Resale Carriers

Changes in underlying network providers for resale carriers, also known as “migration,” allows the reseller to shop around for network time to provide to its

customers at the lowest cost to the reseller. Problems occur when customers expect to be “carried” on a particular network, and the company migrates them to another without notice. The ICC agrees with the Telecommunications Resellers Association’s (TRA’s) proposal of a “bright line” standard under which a change in the underlying network requires customer notification only if the customer had been previously notified of the current network’s identity. Further, the ICC recommends that standards be adopted for underlying networks to prevent transmission of usage information and other consumer proprietary network information (CPNI) to carriers other than their pre-subscribed carrier. This type of occurrence can cause double billing of consumers since more than one carrier receives the identical call information.

Concluding Remarks

The ICC sees an overall need for higher standards in verification procedures. Submitting companies must be certain they have the express consent – either written or verbally recorded – before submitting customer changes to executing carriers.

Additionally, the ICC advocates strong disincentives to slamming which do not allow a slamming company to receive any payment from consumers, even if rules dictate that the slamming company pay the preferred carrier what it collects. Coupled with measures to inform customers by way of status notation on monthly bills of any changes in their pre-subscribed carriers, slamming carriers should find it far more difficult to collect payments to which they have no right. Finally, the ICC supports direct customer payment to their chosen carrier, rather than allowing any payments to be

passed to the slamming carrier. The ICC recognizes that these proposals will have associated costs that will need to be balanced with their benefits.